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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Views adopted by the Committee under article 7 (3) of the Optional Protocol, concerning communication No. 58/2013*,**

Communication submitted by:	L.R. (represented by counsel, Alexandru Postica, Promo-LEX)
Alleged victims:	The author
State party:	Republic of Moldova
Date of communication:	1 September 2011 (initial submission)
References:	Transmitted to the State party on 3 September 2013 (not issued in document form)
Date of adoption of views:	28 February 2017

* Adopted by the Committee at its sixty-sixth session (13 February-3 March 2017).

** The following members of the Committee participated in the examination of the present communication: Ayse Feride Acar, Gladys Acosta Vargas, Nicole Ameline, Magalys Arocha Dominguez, Gunnar Bergby, Marion Bethel, Louiza Chalal, Naéla Gabr, Hilary Gbedemah, Nahla Haidar, Yoko Hayashi, Dalia Leinarte, Rosario Manalo, Lia Nadaraia, Theodora Nwankwo, Pramila Patten, Bandana Rana, Patricia Schulz, Wenyan Song and Aicha Vall Verges.

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1. The author of the communication is L.R., a Moldovan national born in 1959. She claims that the Republic of Moldova has violated articles 1, 2, 5 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women. The author is represented by Alexandru Postica of the non-governmental organization Promo-LEX. The Optional Protocol entered into force for the Republic of Moldova on 28 February 2006.

Facts as submitted by the author

2.1 The author married V.R., in 1985 and they had two daughters, born in 1986 and 1988. V.R., who drank heavily, was violent towards her and their daughters. The violence was physical, psychological and economic in nature.[1] The author made many complaints to the police, but V.R.'s behaviour did not change.

2.2 The author divorced V.R. on 28 October 2003, but the Ciocana District Court ruled on 29 December that the apartment was to be shared between the author and him. Given that they were forced to continue to live together, the violence persisted. The author's continuous complaints were met with accusations by the police of improper conduct on her part, and she was even placed under police supervision and labelled a "family troublemaker" in respect of whom preventive measures needed to be taken.

2.3 On 3 June 2010, V.R. attempted to strangle the author, which resulted in her losing consciousness. Ambulance and police services were called and an administrative case was opened. Given that the author was not updated on the status of that case, notwithstanding her numerous requests for information, she contacted Promo-LEX for assistance.

2.4 On 4 and 9 June 2010, complaints were sent on the author's behalf by Promo-LEX to the Ciocana District Police Inspectorate, under Law No. 45 on Preventing and Combating Domestic Violence and under Ordinance No. 350 of 2 October 2008 of the Ministry of Internal Affairs, and to police station No. 4 of Ciocana district requesting them to act immediately to stop the violence against the author. On 11 June 2010, an application for a protection order was submitted to the Ciocana District Court to prevent V.R. from committing acts of domestic violence and to compel him to stay away from the rooms that the author occupied, to stop damaging her property, to refrain from bringing guests home to drink with, to refrain from other acts that made the author's life intolerable and to make regular financial contributions for upkeep. The application was for a 30-day period. Even though Law No. 45 mandates that a decision be made on such applications within 24 hours,[2] it was not until 15 June 2010 that the District Court rejected the application, stating that the measures requested were not provided for by law and on the grounds that there was a civil dispute between the parties.[3] The author found this out only when she contacted the District Court on 16 June 2010.

2.5 On 21 June 2010, the author submitted a new application to the Ciocana District Court to obtain a protection order. The application was accompanied by a petition to the head judge. On 22 June 2010, the District Court declared the claim

[1] Beginning in 2003, he brought women home with whom he would consume alcohol and have sexual relations in the presence of the children. The author would call the police and administrative sanctions would be applied, but the behaviour continued. His guests would also insult and intimidate the author. He refused to pay for the upkeep of common areas, paid only one third of the bills, damaged the author's property and left the common areas in a state of poor hygiene.

[2] Article 15 (1) of Law No. 45 provides that the court shall, within 24 hours of receipt of the claim, issue a protection order to assist the victim.

[3] Author's comments, 4 June 2014.

admissible in part and ordered protection measures for a period of 30 days, asking V.R. to leave the apartment and to stay away from the victim.

2.6 On 23 June 2010, in response to the initial complaint of 3 June 2010, the police issued an official warning to V.R. concerning any violence against the author and placed him under supervision.[4]

2.7 Given that the protection order remained unenforced, with V.R. remaining in the apartment, a petition was submitted to the Ciocana District Police Inspectorate requesting the enforcement of the decision of the Ciocana District Court. On 28 June 2010, the Inspectorate simply reminded V.R. of the protection order but refused to evict him from the apartment.

2.8 On 13 August 2010, the author complained to the chief of police station No. 4 about acts of intimidation by V.R. In September 2010, the author was subjected to several acts of violence by V.R..[5] On 18 and 27 September 2010, when the author filed two complaints with police station No. 4 following more threats by V.R., she was told that she should not file another complaint because her statements did not match the accounts made by V.R.

2.9 On 22 September 2010, the author submitted a petition to the Ciocana District Prosecutor's Office under article 262 of the Code of Criminal Procedure[6] requesting the initiation of criminal proceedings against V.R. for domestic violence and for failure to abide by the protection order issued on 22 June 2010. On 21 January 2011, the Prosecutor's Office notified the author of its decision of 19 November 2010 not to initiate criminal proceedings against V.R. on the grounds that there was no medical evidence and no evidence of mental suffering and that her testimony contradicted the accounts given by V.R. It also stated that disciplinary sanctions had been imposed on a police officer from police station No. 4 who had threatened her. On 27 September and 6 October 2010, the author appealed to the General Prosecutor's Office and to the Ministry of Social Affairs, calling for the enforcement of domestic violence legislation.[7] On 13 October 2010, she complained to the police about V.R.'s antisocial and disorderly behaviour, his state of drunkenness and the damage that he was causing to her property and the fact that he had nailed shut a window.

2.10 Throughout the proceedings, the author was intimidated by the police as a result of an officer being disciplined after she had submitted a complaint. She was placed under supervision as a "family troublemaker" on 11 November 2010. On 29 November 2010, after having been insulted and intimidated by V.R., she called the police but was threatened with retaliation, in the presence of her lawyer, by the police officer facing disciplinary measures, who was responding to her call. She was told that her numerous complaints, which had not been resolved, had resulted in a reduction in his salary. This was the second such incident with the same officer.[8]

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[4] The violence continued, including psychological abuse by V.R. and his girlfriend, who were often inebriated, played music very loudly, insulted and shouted at the author and behaved in an intimidating manner, and economic violence, given that the author's goods and food were destroyed and stolen and that V.R. did not make fair financial contributions and left the shared apartment in an unhygienic state.

[5] These included intimidation, shouting, with his girlfriend, at the author when drunk and an attempt to assault the author, forcing her to stay with a friend.

[6] In the author's comments of 4 August 2014, the legislative provision is given as article 201 (1) of the Criminal Code.

[7] The reply from the Social Assistance Division of the Ministry was that a call had been made to the house to talk to the author, but she was not there (she had had to move out to protect herself).

[8] A complaint was made on 8 December.

2.11 On 7 December 2010, the same police officer charged her with "moderate disorderly conduct" under article 354 of the Code of Administrative Offences and a fine was imposed. Three other administrative charges were also brought against her by the officer, and all were subsequently quashed. The author submits that the charges were designed to intimidate her so that she would no longer lodge complaints against V.R.

2.12 On 8 December 2010, the author submitted a new petition to the Ciocana District Prosecutor's Office with regard to the domestic violence to which she was continuously being subjected.

2.13 On the same day, the author also submitted a complaint to the Ministry of Internal Affairs regarding the police officer's abusive behaviour on 29 November 2010.

2.14 On 10 December 2010, the author submitted another application to the Ciocana District Court seeking a protection order within 24 hours under Law No. 45. On 13 December 2010, having received no response, her lawyer learned that the complaint had not been registered. A complaint was submitted to the head judge of the District Court, the Ministry of Justice and the Superior Council of Magistracy. After a 54-day delay, on 2 February 2011, the District Court refused to grant the author a protection order, owing to a lack of evidence of V.R.'s violence towards her.

2.15 On 16 February 2011, the author lodged an appeal with the Chisinau Court of Appeal against the decision of the Ciocana District Court, which was rejected on 24 May 2011 on the grounds that the conflict between the parties had originated in the division of the shared apartment, that V.R. benefited from good references provided by the Union of Afghanistan War Veterans and that he had no record of administrative or criminal sanctions. The Court of Appeal considered that, because the author had been placed under supervision as a "family troublemaker" on 11 November 2010 and fined on 7 December 2010 for moderate disorderly conduct, notwithstanding the fact that those proceedings had been quashed by the District Court on 12 January 2011, her credibility was in doubt. On 3 February 2011, further administrative proceedings were brought against the author as a result of a complaint on fabricated charges, which, she asserts, V.R. had been advised to do by the police officer who wished to discredit her for his own benefit. She was convicted of committing the offence of "insult" towards her husband even though she was not living in the property. That decision was later annulled on appeal, on 2 March 2011.

2.16 The author initiated a lawsuit to divide the apartment through the sale of shares. Notwithstanding a decision of the Ciocana District Court in her favour on 11 March 2011, the judgment was quashed by the Chisinau Court of Appeal on 25 May 2011, which ruled that V.R., as a war veteran with a disability, would have insufficient money to buy another dwelling with his share. The matter was remanded to the District Court for re-examination.

2.17 After the present communication had been submitted to the Committee, the Deputy Prosecutor General quashed the order of 13 April 2012 made by the Ciocana District Prosecutor not to begin criminal action and ordered that domestic violence proceedings against V.R. should begin on 24 October 2013.

Complaint

3.1 The author claims that the State party has violated articles 1, 2 (a), (c), (d) and (e), 5 and 16 of the Convention by failing to effectively protect her from domestic violence. She asserts that domestic violence disproportionately affects women in the

State party and therefore amounts to discrimination against women contrary to article 1 of the Convention, read in accordance with the Committee's general recommendation No. 19 (1992) on violence against women.

3.2 The author claims that women in the State party, compared with men, face unresponsive attitudes from law enforcement bodies, who often purposely fail to provide protection to women. Women are affected to a greater extent by the attitude of prosecutors, who choose not to prosecute cases of domestic violence unless they involve medium to severe injuries, attempted murder or murder. Such scenarios occur notwithstanding the existence of explicit legal provisions prescribing prosecution for such acts. Furthermore, women are disproportionately affected by a lack of coordination among police officers, prosecutors and courts, which is a result of inadequate training on how to implement legislation correctly. This means that, even where a protection order is issued, women continue to be exposed to risk, given that the police often fail to execute such orders. They often fail to act in cases in which the order provides for the perpetrator to be evicted from the shared home, citing a lack of housing.

3.3 In relation to article 2 (a), (c), (d) and (e), the author claims that the authorities failed to protect her, a victim of domestic violence, and thus fell short of their obligations under the Convention. In particular, V.R. was not prosecuted or punished and the continuing abuses were not prevented. The authorities did not abstain from the discriminatory practice of questioning the credibility of the female victim, yet they did not question the statement by her assailant. The authorities did not process her applications for protection orders in a timely manner. They consider domestic violence a private matter and thus limited their intervention to reminding V.R. of the terms of the protection order of June 2010, which remained unenforced. Subsequent attempts to renew the order were denied because the author's credibility was questioned. Her applications were not treated with urgency, in violation of national legal provisions.

3.4 In relation to article 5, read in conjunction with article 16, the author claims that the authorities do not ensure prompt or adequate prosecution of perpetrators of domestic violence. Law enforcement bodies and health-care and social assistance professionals are not fully familiar with relevant legal provisions and all the forms of domestic violence and therefore do not react adequately to complaints. The author states that she was discriminated against because of prejudices prevailing in society, according to which it is inappropriate for a woman to air in public what happens inside the home, and that this attitude pervades law enforcement bodies. The author refers to the Committee's findings of 2006 regarding the prevalence of domestic violence against women in the State party and the attitude of public officials who continue to consider it a private matter (see CEDAW/C/MDA/CO/3) and notes that they are still relevant. Because she was faced with hostile attitudes on the part of law enforcement bodies when she requested protection, with her credibility being systematically challenged, the author argues that the State party failed to eliminate prejudices towards women in the justice system, in breach of its obligations under article 5 of the Convention.

State party's observations on admissibility and the merits

4.1 By a note verbale dated 12 May 2014, the State party submitted its observations on admissibility and the merits. It asserted that the relevant national institutions had investigated the author's complaints of domestic violence, intimidation and harassment.

4.2 On 24 October 2013, the General Prosecutor's Office opened a criminal case under article 201 of the Criminal Code, on domestic violence, which was submitted

to the criminal investigation body of the Ciocana District Police Inspectorate. On 5 December 2013, the author was recognized and heard as an aggrieved party. During the criminal investigation, law enforcement personnel took action to recognize and hear the aggrieved party and the suspect, witnesses were interviewed and materials relating to the case were prepared.

4.3 On 20 February 2014, V.R. was recognized as a suspect under article 201 of the Criminal Code. On 10 March 2014, V.R. appealed against the decision, which was subsequently dismissed by a prosecutor's order. In addition, psychiatric and psychological examinations of both parties were ordered. The State party indicated that the criminal investigation had been made difficult owing to its complexity and the behaviour of the parties, which caused delays.

4.4 Concerning the protection measures and compensation available for ensuring the author's well-being, the State party claims that the Ministry of Labour, Social Protection and Family and the Directorate of Social Assistance and Family Protection conducted a joint investigation, reporting that the author was a person with an average degree of disability who benefited from a pension in the amount of some $18 monthly and State financial support amounting to $2.50 monthly.

Authors' comments on the State party's observations on admissibility and the merits

5.1 On 4 August 2014, the author's counsel submitted her comments on the State party's observations.

5.2 The author reiterates that the State party's actions amount to a violation of articles 1, 2 (a), (c), (d) and (e), 5 and 16 of the Convention.

5.3 The author recalls the factual and procedural background, emphasizing the failure of the authorities to implement Law No. 45, the failure to act in a timely fashion on requests for protection, the failure to enforce protection orders and the fact that she was not believed and not treated as a victim and was prosecuted on fabricated charges and intimidated by the police.

5.4 Regarding the State party's assertions that her case was investigated in 2013, the author notes that, although an order was issued recognizing her as a victim on 5 December, only two of her witnesses were heard and the criminal investigation bodies in no way commented on the documents adduced by her lawyer, which included protection orders, a forensic report and court rulings. An out-patient psychiatric-psychological examination was ordered for both parties. The author and V.R. both attended. The result was inconclusive with regard to the author. On 29 April 2014, a new examination was ordered, requiring the author to be admitted to the clinical psychiatric hospital in Chisinau for 10 days. V.R. was not subject to the same test. Fearing serious abuse,[9] the author refused to be admitted. The criminal investigator did not propose alternative institutions for the examination and therefore none was undertaken.

5.5 The author adds that, on 19 May 2014, the Ciocana District Prosecutor ordered that the criminal prosecution of V.R. should be discontinued owing to a lack of corpus delicti. On 3 June 2014, an appeal was filed to the Prosecutor General, in which the author's counsel challenged the decision to discontinue the criminal proceedings and requested their resumption. On 10 June 2014, the appeal was dismissed by the Ciocana District Deputy Prosecutor on the ground that it was unfounded and the order to suspend proceedings upheld.

[9] Report by the Moldovan Centre for Human Rights on a visit to a clinical psychiatric hospital. Available from: www.ombudsman.md/sites/.

5.6 Several complaints were filed by the author and, on 14 July 2014, the Ciocana District Court ordered the dismissal of her complaint, stating that all the acts of violence had occurred from 2003 to 3 June 2010 and that, after 3 June 2010, there had been no more acts of violence by V.R. other than verbal abuse. The statutory limit for criminal responsibility for such minor offences is two years and had therefore expired. The District Court also held that it had not been established that the author had suffered distress or moral or material damage. Moreover, the author had refused hospitalization to undergo psychiatric tests, thus preventing prosecutors from establishing the actual cause of her mental anguish. On 15 July 2014, the author appealed against that decision before the Court of Appeal.[10] She therefore asserts that all domestic remedies have been exhausted, both at the time at which the complaint was made and after the proceedings had been resumed by the State party and concluded.

5.7 The author reiterates the facts, stating that, even after having filed many complaints, a formal accusation by the Ciocana District Prosecutor against V.R. was made only on 22 September 2010. After an examination of the accusation, it was decided not to press charges. The order of the Deputy Prosecutor General of 24 October 2013, by which it was decided to reopen the investigation, noted that the previous investigation by the prosecutorial bodies had been superficial. Consequently, three years after the notification of the crime and three years after its commission, prosecutors admitted having examined the allegations of domestic violence only superficially.

5.8 The author refers to the orders to cease criminal proceedings of 19 May and 10 June and the conclusion of the Ciocana District Court of 14 July 2014, asserting that it can be seen that her arguments and evidence were ignored as insufficient, even though witnesses confirmed the abuse. She also refers to the approach of the authorities, in which they ordered a psychiatric evaluation to determine whether she suffered from mental health issues, as being unacceptable, given that V.R. was not subjected to the same test. She refers to reports in which it is stated clearly that placing a healthy person in a psychiatric unit without the right to leave constitutes inhumane and degrading treatment[11] and another that provides criticism of the way in which examinations of this type are undertaken in the State party.[12] The author states that the implication that she has a mental disability is indicative of the bias against the victim in such cases.

5.9 The author also notes the lack of a prompt investigation, especially given that the statute of limitation for such offences is only two years. Therefore, by the time the case is resolved by the Committee there could be no criminal liability on a finding of violation. She refers to reports from non-governmental organizations reflecting such procedural deficiencies,[13] which ensure that perpetrators cannot be sanctioned.

5.10 The author recalls that the 24-hour time limit for consideration of a protection order was flouted by the prosecutorial authorities in her case, with her applications taking 11 and 54 days to be considered. In addition, the way in which such

[10] The proceedings were continuing at the time of the submission of the comments.

[11] A link is provided by the author's counsel to a foreign-language report.

[12] Report by the Moldovan Centre for Human Rights on a visit to a clinical psychiatric hospital. Available from: www.ombudsman.md/sites/.

[13] The Equal Rights Trust and Promo-LEX reported on ill-treatment on the grounds of discrimination in Chisinau in 2012, citing key issues with domestic violence provisions under Law No. 45 and noting delays in beginning criminal cases, the biased attitude of the authorities, failure to ascribe credibility to a victim's statements and the refusal to receive complaints.

applications are considered has also been repeatedly criticized by the European Court of Human Rights.[14]

5.11 The author also claims that protection orders should be issued in cases in which there is a minimum of direct evidence indicating an act of violence. She claims that, in her case, she was discriminated against, compared with the treatment of V.R., given that his statements carried more weight than hers with the prosecutorial authorities, notwithstanding the existence of a number of eyewitnesses to verbal aggression on his part, which the Ciocana District Court considered insufficient.

5.12 The author states that, in 2011, a report by the National Bureau of Statistics of the Republic of Moldova on family violence against women revealed that prejudice against women was common in the State party and that the authorities admitted that there was a discriminatory attitude towards women.[15] Furthermore, she cites two reports on domestic violence,[16] stating that 1 in 4 Moldovan women is a victim of domestic violence and that the widespread behaviour of the police discourages and revictimizes women seeking help. In addition, the author claims that courts frequently refuse to issue protection orders and that there are significant problems with regard to the supervision and execution of orders.[17]

5.13 The author adds that the State party has failed to provide her with a minimum of decency in her living arrangements following the acts of violence. While V.R. remained in the apartment, she was left unprotected. The authorities did not create proper living conditions or provide her with information on social services, such as those that offer shelter or food. Although there are foster care centres in some regions, they lack the capacity required to cover the large number of victims.[18] Moreover, the State party did not succeed in protecting her. In fact, the police even threatened her with retaliation and warned her to stop complaining.

5.14 With regard to her disability pension, the author claims that it cannot be regarded in any way as a measure to compensate for the lack of protection and safety or for her discriminatory treatment. By contrast, data provided by the authorities[19] show that a payment of $20.50 is insufficient for subsistence, let alone for covering damages of any kind.

5.15 The author argues that reopening the criminal proceedings after the statutory limitation period for that crime had expired and the subsequent termination of the case cannot be equated with a prompt and effective investigation of her claim, given that it occurred only as a reaction to the registration of her case by the Committee.

5.16 Although the laws on domestic violence have been in place for six years, no measures have been taken to implement them, such as setting up adequate shelters and services for victims and centres for the rehabilitation of perpetrators. In addition, there are insufficient foster care centres for children.[20] The author asks the Committee to deem the application admissible and to find a violation of articles 1, 2 (a), (c), (d) and (e), 5 and 16 of the Convention.

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[14] See *Eremia v. the Republic of Moldova*, application No. 3564/11; *Mudric v. the Republic of Moldova*, application No. 74839/10; *B. v. the Republic of Moldova*, application No. 61382/09; and *T.M. and C.M v. the Republic of Moldova*, application No. 26608/11.

[15] The author does not clarify which authorities made that statement.

[16] "Report on human rights in Moldova: a retrospective of the years 2009-2010" (2012) and Central Association for the Protection and Promotion of International Women's Rights "La Strada", "The activity report of the hotline for women" (2012).

[17] The author gives no source for this information.

[18] The author gives no source for this information.

[19] The author does not clarify which data.

[20] The author sent her children away to live.

5.17 The author also specifically requests the Committee to order that she be compensated and, in general, that the State party take steps to ensure the effective protection of women who are victims of domestic violence, including by bringing practice in line with national legislation and the Convention, training law enforcement authorities and judges, providing services and undertaking public-awareness campaigns.

State party's additional observations

6.1 By a note verbale dated 11 November 2014, the State party submitted additional observations. It notes that, according to the author, the criminal proceedings were dismissed by the Ciocana Prosecutor's Office on 19 May on grounds of a lack of corpus delicti in V.R.'s actions. The author appealed and, on 2 October, the Chisinau Court of Appeal quashed the previous decision dismissing the criminal proceedings. It was drafting a decision at the time that the comments were submitted. The State party asserted that, according to that decision, the criminal prosecution would continue and that the delay was due to the complexity of the case and the behaviour of both parties.

6.2 On 4 July 2014, the Ciocana District Court ordered the sale of the family's apartment. The author received three quarters of the proceeds of sale and V.R. one quarter.

Author's comments on the State party's additional observations

7.1 On 21 November 2014, the author submitted additional comments. She quotes from the decision of the Chisinau Court of Appeal dated 2 October, which states that "the court of law did not take all necessary measures to examine the case objectively and from every angle, and pronounced an unmotivated decision". Furthermore, the Court of Appeal ruled that prosecutors had not correctly assessed the evidence proving guilt, notwithstanding a decision of the Ciocana District Court of 22 June 2010 finding that V.R. had been violent towards her, citing examples of physical, psychological and economic abuse. It also held that the Ciocana Prosecutor's Office had documented the case in a faulty way and it criticized the actions of the instructing judge, who examined the case superficially.

7.2 On 7 November 2014, the first hearing was set at the Ciocana District Court. However, the author demanded to have the judge recused on the grounds that the judge lacked impartiality, because the same judge had issued a ruling refusing to admit her application on 15 June 2010. In response to the State party's observations, the author notes that the case has not therefore been protracted because of her or the perpetrator, but rather as a result of the inefficient actions of the prosecutorial bodies.

7.3 In response to the State party's observations on the research carried out by the Ministry of Labour, Social Protection and Family and the Ciocana Directorate for Social Aid and Family Protection, the author claims that no written evidence has been presented to this end. Furthermore, she reiterates that the obligation to pay disability allowance should not be confused with that to ensure social aid to women who are victims of domestic violence. She claims that there is no legal framework to guarantee such aid.

7.4 With regard to the co-ownership of the apartment, the author states that no such decision has been taken. It does not appear in the database of the Ciocana District Court and there were no hearings in July on that topic. Regarding the legal aid mentioned by the State party, the author states that the Legal Centre for Women is a non-governmental organization and not a State institution.

7.5 The author claims that the new arguments adduced by the State party do not change the initial position expressed in her communication of 4 August 2014.

Additional observations

From the State party

8.1 On 4 February 2015, the State party submitted additional observations. It recognizes the phenomenon of domestic violence as a social problem of a criminal nature and a serious breach of human rights. The national authorities display a strong willingness to adjust national provisions to international and European standards. Moreover, in 2014, the Ministry of Labour, Social Protection and Family, the General Prosecutor's Office, the General Police Inspectorate and civil society jointly prepared a bill to amend and supplement certain acts to prevent and combat domestic violence in accordance with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. The bill has been sent for approval to the relevant ministries and non-governmental organizations. It contains provisions regarding compensation, ensuring free legal assistance for victims, combating victim persecution, failure to comply with protection orders and the execution of emergency restraining orders. Approving such legislation will, according to the State party, bring national policy into line with the Committee's recommendations made in 2013.

8.2 With regard to the present communication, the State party notes that the relevant national institutions are monitoring the evolution of the case and providing all necessary assistance in accordance with the law.

From the author

9.1 On 9 September 2015, the author provided additional comments on the State party's observations. She states that, on 16 January, the Ciocana District Court ordered the withdrawal of her complaint, given that the required investigations into her psychological sufferings or moral damage could be undertaken only by an expert review, which she refused to undergo. The author filed a second appeal focusing on the fact that no alternative had been given to her for the examination other than being admitted to a psychiatric hospital for 10 days.

9.2 On 30 March 2015, the Chisinau Court of Appeal quashed the decision of the Ciocana District Court, obliging the Ciocana District Deputy Prosecutor to remedy the violations and resume the prosecution. On 12 August, the author was subpoenaed to appear before prosecutors, but the hearing was postposed so that the psychological evaluation could be conducted.

9.3 The author also provides statistics showing that 90 per cent of the victims of domestic violence at the national level are women and three case studies showing the systemic problems with obtaining and enforcing protection orders and the failure of authorities to act in serious cases of domestic violence. She reiterates that women are affected disproportionately by the failure to effectively apply criminal and administrative provisions in place to protect the victims of domestic violence.

From the State party

10.1 By a note verbale dated 6 January 2016, the State party provided additional observations. It reiterates that changes are being made to national law and procedure to improve the situation for victims of domestic violence, while conceding that it remains a significant issue. It also provides statistics regarding criminal investigations into domestic violence. It reiterates that legislation is being updated to bring it into line with the Council of Europe Convention on Preventing and

Combating Violence against Women and Domestic Violence and that training is being provided to prosecutors.

10.2 The State party notes that, on 24 April 2015, the criminal investigation into the author's case was resumed in order to ascertain and prove domestic violence, including through a psychiatric examination of the author for the proper assessment of the crime that she had reported.

From the author

11.1 On 11 February 2016, the author submitted further comments. She agrees with the statistical data provided by the State party and its explanation of the progress made, but states that this is insufficient. She asserts that the complaints procedure under the Optional Protocol is not the correct forum for generalizations regarding progress. It should be used to explain specific progress in her case.

11.2 The author confirms that, on 24 April 2015, the case was reopened for re-examination by the same prosecutor. Since then, more than six orders extending the duration of the prosecution have been issued, as have orders for in-patient psychological and lie detector tests and a psychological test in the form of a 30-day in-patient assessment. When the author refused and suggested that she should be seen by another board of doctors, the State party required the National Forensic Centre to provide a report on the author in response to set questions. The Centre refused to produce such a report, noting that it had no expertise in psychiatry. The case had therefore reached a deadlock.

11.3 The author also notes that the criminal investigation period had already exceeded the limitation period for establishing criminal liability under article 201 (1) of the Criminal Code. It is therefore futile to continue with the prosecution.

11.4 The author also asserts that the request for a psychological or psychiatric evaluation to determine her mental state has caused her unjustified suffering and renewed trauma.

11.5 The author agrees with the State party's summary of the legislative and procedural amendments. She agrees that the legal framework and amendments are fairly comprehensive, but notes that the adoption of the amendments has been delayed by the authorities. Swift responses and the uneven application of the law by national courts are issues that still need to be acted upon by standardizing jurisprudence.

11.6 The author refers the Committee to recommendations made in her submission of 4 August 2014 and requests the Committee to recommend that the State party review and adopt the package of legislative amendments and incorporate them into national law, find alternative solutions to psychiatric testing, which should be financially covered by the Government, and standardize judicial practice, ensuring an equitable balance between the interests of society and the individual while providing legal certainty to the victim.

11.7 With reference to her submission of 13 June 2016, the author adds that, on 29 February 2016, the criminal case, which had been resumed on 24 April 2015, was discontinued and she was notified thereof at the end of April 2016. No alternatives were provided for the psychological testing and none of her other witness were heard. Nevertheless, the final decision was not challenged by the author, given that the criminal liability of V.R. could not be pursued in any case, owing to the statute of limitations.

11.8 The author reiterates that the State party has failed to discharge its positive obligation under the Convention to protect her from domestic violence and prevent

its reoccurrence. It has also failed to ensure the timely enforcement of legislation, continued to treat her case as unimportant and blamed her for her inability to adduce further evidence. The failure to understand the intimidation that the author was experiencing and the effects of an ineffective investigation meant impunity for V.R. Furthermore, the Ciocana District Prosecutor's Office did not meet its obligations to open and carry out its investigations in a timely fashion.

11.9 The author notes that the actions of the State party's authorities, including allowing the accused to remain in the same house as his victim and the discontinuance of proceedings, have, at all times, failed to protect her. The State party's treatment of her has therefore been discriminatory.

Issues and proceedings before the Committee

Consideration of admissibility

12.1 In accordance with rule 64 of its rules of procedure, the Committee is to decide whether the communication is admissible under the Optional Protocol to the Convention. Pursuant to rule 72 (4), it is to do so before considering the merits of the communication.

12.2 With regard to article 4 (1) of the Optional Protocol, the Committee observes that the State party raises no preliminary objections to the admissibility of the communication. Noting that the author did not appeal against the decision of 29 February 2016 to discontinue the case, the Committee recalls that the obligation to exhaust domestic remedies is not applicable where the application of such remedies is unreasonably prolonged or unlikely to bring effective relief. The Committee is of the view that, in the present case, having recourse to such remedy could not bring effective relief to the author, given that the two-year statutory limitation on bringing criminal prosecutions has elapsed. The Committee thus considers that it is not precluded by article 4 (1) from considering the communication.

12.3 With regard to article 4 (2), the Committee has ascertained that the matter has not already been or is not being examined under another procedure of international investigation or settlement.

12.4 The Committee notes that, in relation to article 4 (2) (e), the acts of violence against the author began before the entry into force of the Optional Protocol for the State party, in February 2006, but after the entry into force of the Convention in 1981. Given that those acts continued after the entry into force of the Optional Protocol for the State party, and having regard to the fact that the incident of 3 June 2010 and the exhaustion of domestic remedies occurred after the entry into force of the Optional Protocol for the State party, the Committee considers that it is not precluded from examining the communication based on article 4 (2) (e).

12.5 The Committee considers that the communication is not inadmissible on any other grounds and declares it admissible as raising issues under articles 1, 2 (a), (c), (d) and (e), 5 (a) and 16 of the Convention.

Consideration of the merits

13.1 The Committee has considered the present communication in the light of all the information made available to it by the author and by the State party, as provided for under article 7 (1) of the Optional Protocol.

13.2 The author asserts that the State party has violated her rights under articles 1, 2 (a), (c), (d) and (e), 5 and 16. The issue is therefore to determine whether the State party, through its public authorities and institutions, adequately addressed the

author's repeated complaints and provided her with effective legal protection and whether it met its positive obligations under the Convention.

13.3 The Committee takes note of the author's contention concerning the history of violence perpetrated by V.R. throughout their marriage and after their divorce and the numerous complaints that she made to the police and to prosecutorial authorities and the requests to initiate criminal proceedings against him, which were not acted upon, and the intimidation that she was subjected to by the law enforcement authorities through administrative charges as reprisals for her complaints about the lack of progress in her case. The author has also claimed that the authorities have failed to promptly deal with her applications for protective orders, contrary to national legislation, failed to update her on her case, rejected her applications on the basis of prejudices and stereotypes contrary to the Convention and failed to enforce the one and only protection order that was finally granted to her.

13.4 The Committee also takes note of the author's averment that, when the State party eventually reopened criminal proceedings, after the present matter had been referred to the Committee, it failed to carry out a prompt and effective investigation did not give sufficient weight to her statements compared with those of her former husband, did not hear all her witnesses and did not assess her supporting documentary evidence and that the prosecutorial authorities focused on her mental state and not that of V.R., and even attempted to force her to undergo in-patient psychiatric testing, thereby clearly demonstrating gender bias towards victims of domestic violence.

13.5 The Committee also takes note of the State party's observations that the author's complaints were investigated in accordance with the law, that the author was duly treated as an aggrieved party and that her witnesses were heard. It also noted that efforts were being made to ensure that legislation was fully compatible with the standards and norms set out in the Convention. In that connection, the Committee welcomes the detailed information provided by the State party concerning the preparation of a bill in 2014 in consultation with different stakeholders, including civil society, that seeks to better prevent and combat domestic violence and to bring national legislation and policy into line with the Convention on Preventing and Combating Violence against Women and Domestic Violence and the Committee's recommendations made in its concluding observations in 2013. It notes with appreciation that the bill, which has been sent for approval to the relevant ministries and non-governmental organizations, contains specific provisions regarding compensation, guarantees of legal aid assistance for victims and measures to combat victim persecution, and addresses non-compliance with protection orders and the execution of emergency restraining orders.

13.6 With regard to the submission of the author that the decisions of the authorities were based on gender stereotypes, in violation of articles 5 and 16 (1) of the Convention, the Committee reaffirms that the Convention places obligations on all State organs and that States parties can be responsible for judicial decisions that violate provisions of the Convention. It recalls that, under articles 2 (a), (c), (d) and (e) and 5 (a), the State party has a duty to modify or abolish not only existing laws and regulations, but also customs and practices that constitute discrimination against women, while under article 16 (1) it must take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations. In this regard, the Committee stresses that stereotyping affects women's rights to a fair trial and that the judiciary must be careful not to create inflexible standards on the basis of preconceived notions of what constitutes domestic or gender-based violence, as noted in general recommendation No. 33 (2015) on women's access to justice.

13.7 In the present case, the compliance of the State party with its obligations under article 2 (a), (c), (d) and (e) to eliminate gender stereotypes needs to be assessed in the light of the level of gender sensitivity applied in the judicial handling of the author's case. The Committee notes with concern that the divorce judgment did not provide for the sale of the marital home and that, the complaints of domestic violence notwithstanding, the courts appear to have privileged the husband's right to property, owing to his financial circumstances, over the author's right to physical integrity and well-being. The Committee further notes the biased reasoning of the judges for the denial of the author's applications for protection orders, which included: there was a civil dispute between the parties; there was no medical or forensic evidence or evidence of mental suffering on the part of the author; her testimony contradicted the accounts given by V.R.; there was a lack of evidence of V.R.'s violence; the conflict between the parties originated in the division of the shared apartment; V.R. benefited from good references provided by the Union of Afghanistan War Veterans and had no record of administrative or criminal sanctions; the author was placed under supervision as a "family troublemaker" on 11 November 2010; and the author was fined on 7 December 2010 for moderate disorderly conduct, even if these proceedings were later quashed by the Ciocana District Court on 12 January 2011.

13.8 The Committee observes that such reasoning prevailed, notwithstanding a protection order against V.R. being granted on account of his violent behaviour supported by witness statements and of records of ambulance and police services having attended when V.R. attempted to strangle the author. The Committee notes with concern the intimidation tactics used against the author; her being labelled a "family troublemaker"; the fact that, notwithstanding her complaints, the same police officer was able to file arbitrary administrative charges against her several times, in addition to the failure to process her applications for protection orders in a timely fashion; and the failure to effectively implement the protection order when it was finally issued. The Committee expresses its concern at the disturbing practice of subjecting victims of domestic violence to psychiatric examination for a "proper assessment of the crime reported" and, as in the present case, ordering a mandatory 10-day stay for the author in a psychiatric hospital for the purpose of establishing her mental anguish, a request to which the author refused to submit.

13.9 The Committee observes that the Deputy Prosecutor General, in his decision to have the criminal investigation reopened on 24 October 2013, admitted that the proceedings initially brought by the author against V.R. had been dismissed after only a superficial review by the prosecutorial authorities and that, on 2 October 2014, the Chisinau Court of Appeal[21] had held that "the [lower] court of law did not take all necessary measures to examine the case objectively and from every angle, and pronounced an unmotivated decision". It also ruled that the prosecutorial authorities did not correctly assess the evidence proving guilt, notwithstanding a decision of the Ciocana District Court of 22 June 2010 to issue a protection order, finding that V.R. had been violent towards the author and the decision of the District Court cited examples of physical, psychological and economic abuse.

13.10 The Committee notes with concern that, although the Chisinau Court of Appeal also held that the Ciocana District Prosecutor's Office had documented the case in a faulty manner and severely criticized the instructing judge who had examined the case superficially, the very same judge was assigned to hear the case when it was remanded to the lower court, and the matter was discontinued owing to

[21] In its admittance of the author's appeal, it ruled to quash the decision of the Ciocana District Court of 14 July 2014.

a deadlock caused by the State party's insistence that the author be subjected to an in-patient psychiatric examination.

13.11 The Committee notes that none of these facts have been disputed by the State party and that, read as a whole, they indicate that the decisions made by the Ciocana District Prosecutor, the Ciocana District Court judge and the police were based on stereotyped, preconceived and therefore discriminatory notions of what constitutes domestic violence. The Committee therefore concludes that the State party's authorities failed to act in a timely and adequate manner and to protect the author from violence and intimidation in violation of its obligations under the Convention.

13.12 In the light of the foregoing, the Committee considers that the manner in which the author's case was addressed by the State party's authorities constitutes a violation of her rights under articles 1, 2 (a), (c), (d) and (e), 5 (a) and 16 of the Convention. Specifically, the Committee recognizes that the author has suffered moral and pecuniary damage and prejudice. She was subjected to considerable fear and anguish when she was left without State protection and forced to live with her aggressor and was exposed to considerable renewed trauma when the State organ that ought to have been her protector, especially the police, instead victimized and intimidated her.

14. Acting under article 7 (3) of the Optional Protocol to the Convention, the Committee is of the view that the State party has failed to fulfil its obligations and has thereby violated the rights of the author under articles 1, 2 (a), (c), (d), (e), 5 (a) and 16 of the Convention, and, while appreciating the State party's efforts to institute a comprehensive package of legislative and policy amendments in order to combat domestic violence, makes the following recommendations to the State party:

(a) Concerning the author of the communication:

(i) Take immediate and effective measures to guarantee the physical and mental integrity of L.R.;

(ii) Ensure that L.R. receives reparation proportionate to the physical and mental harm suffered and to the gravity of the violations of her rights;

(b) General:

(i) Fulfil its obligations to respect, protect, promote and fulfil the human rights of women, including the right to be free from all forms of gender-based violence, including domestic violence, intimidation and threats of violence;

(ii) Expedite the passage of the bill to prevent and combat domestic violence in order to bring national legislation into full compliance with Convention and the Convention on Preventing and Combating violence against Women and Domestic Violence;

(iii) Amend relevant provisions of article 60 (1) of the Criminal Code to address statutory limitation periods in domestic violence cases proportionate to the gravity of each case;

(iv) Investigate promptly, thoroughly, impartially and seriously all allegations of domestic violence, ensure that criminal proceedings are initiated in all cases of domestic violence, bring the alleged perpetrators to trial in a fair, impartial, timely and expeditious manner and impose appropriate penalties;

(v) Provide victims of domestic violence with safe and prompt access to justice, including free legal aid where necessary, in order to ensure that they have access to available, effective and sufficient remedies and rehabilitation in line with the guidance provided in general recommendation No. 33;

(vi) Provide offenders with rehabilitation programmes and programmes on non-violent conflict resolution methods and prioritize housing options for perpetrators subject to protection orders;

(vii) Provide mandatory and effective capacity-building, education and training for the judiciary, lawyers and law enforcement officers, including police officers, prosecutors and health-care professionals, on the impact of gender stereotypes and unconscious bias, including their contribution to gender-based violence against women and inadequate responses to it, in order to better equip them to adequately prevent and address domestic violence against women;

(viii) Develop and implement effective measures, with the active participation of all relevant stakeholders, such as women's organizations, to address the stereotypes, prejudices, customs and practices that condone or promote domestic violence;

(ix) Eliminate the practice of subjecting victims of domestic or gender-based violence to a compulsory in-patient psychiatric examination;

(x) Take all measures necessary to ensure that the national strategy for the prevention and effective treatment of violence within the family is implemented and evaluated promptly;

(xi) Implement expeditiously and without delay the Committee's concluding observations[22] of October 2013 on the combined fourth and fifth periodic reports of the Republic of Moldova in respect of violence against women and girls. In particular the Committee recommends that the State party:

a. Strengthen the enforcement of the Criminal Code and Law No. 45-XVI on preventing and combating domestic violence and other relevant national legislation; ensure that all women and girls, including in particular older women, Roma women and girls and women and girls with disabilities, are protected from violence and have access to immediate means of redress; and launch ex officio investigations into all such crimes and ensure that perpetrators are prosecuted and punished commensurate with the gravity of the crime;

b. Expedite its efforts to amend Law No. 45-XVI so as to supplement court-ordered protection with a system of police-ordered protection and enable the issuance of police emergency protection orders;

c. Remove any impediments faced by women in gaining access to justice; ensure that legal aid is made available to all victims of violence; encourage women to report incidents of domestic and sexual violence by raising awareness about the criminal nature of such acts; provide adequate assistance and protection to women who are victims of violence, including Roma women; and increase the number and funding of shelters and guarantee national coverage extending to women from rural areas and Transnistria.

15. In accordance with article 7 (4), the State party shall give due consideration to the views of the Committee, together with its recommendations, and shall submit to the Committee, within six months, a written response, including any information on any action taken in the light of the views and recommendations of the Committee. The State party is also requested to publish the Committee's views and recommendations and to have them translated into the official language of the State party and disseminated widely in order to reach all relevant sectors of society.

[22] CEDAW/C/MDA/CO/4-5.